

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

CYRUS HARRIS, et al.,)	
)	No. 08 C 541
Plaintiffs,)	
)	Honorable David H. Coar
)	Magistrate Judge Nolan
)	
ILLINOIS STATE POLICE, et al.,)	
)	
Defendants.)	

DEFENDANTS' 12(b)(6) MOTION TO DISMISS

Now come the defendants, Todd Damaski (Damaski”), Clarence Dumas (“Dumas”) Illinois State Police (“ISP”) and Illinois Department of Corrections (“IDOC”), by and through their attorney, LISA MADIGAN, Illinois Attorney General, and pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, move this Honorable Court to dismiss Counts VI, VII, and VIII of the plaintiffs’ complaint for failure to state a claim upon which relief can be granted. In support of this Motion, Defendants state the following:

1. Plaintiffs Cyrus Harris, LaShawn Harris, et al. bring a Section 1983 complaint seeking damages against defendants for purportedly violating their civil rights under the Fourth and Fourteenth Amendments.
2. In addition to their section 1983 claims, Plaintiffs also seek monetary relief from the Illinois State Police and the Illinois Department of Corrections, under a *Monell* claim and a claim for indemnification under state law.
3. Plaintiffs’ complaint fails for the following reasons: (a) Plaintiffs may not assert a claim for indemnification; (b) Plaintiffs may not assert a *Monell* claim against the state of Illinois and state agencies; (c) there is no cause of action for plaintiffs’ claim for illegal seizure of

property.

4. Defendants have filed a supporting memorandum of law attached hereto.

WHEREFORE, based on the foregoing, Defendants request that this Honorable Court grant their motion and dismiss portions of the complaint with prejudice.

Respectfully submitted,

LISA MADIGAN
Attorney General of Illinois

s/Shirley R. Calloway
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